SINGLE BENCH

(3)

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

W.P. No. 3609 /2005

PETITIONER. : Brijlal Nishad s/o Shiv Prasad Nishad, aged about years, r/o village Bharra-toli, Tehsil Manpur, Distt. Rajnandgaon, C.G.

V E R S U S

RESPONDENTS : 1. The State of Chhattisgarh, through Secretary, Forest Department, D.K.S. Bhawan, Raipur, C.G.

2. The Additional Collector, Rajnandgaon, District Rajnandgaon, C.G.

3. The Board of Revenue, through Secretary, Circuit Court, Raipur, District Raipur, C.G.

NOTARY I.C. TIWARY NOTARY (ADVOCATE) Distt. Bilaspur (C.G.) INDIA GOVERNMENT OF INDIA

RECEIVED COPY 1.6.05 CLERK to A.G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(42)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

8-8-2005

Shri A.K. Prasad with Shri Rajesh Tiwari, counsel for the petitioners.

Shri N. K. Agrawal, Deputy Advocate General with Shri Sandeep Dubey, Govt. Advocate for the State/respondents.

By this common order Writ Petitions No.3609/2005 and 3611/2005 are being disposed of, as the similar point is involved in both the writ petitions.

By these petitions the petitioners have questioned the legality, propriety and correctness of the order dated 30-11-2004 passed by the Board of Revenue in case No.87-A/73/2003-04 and also the order dated 28-6-2004 passed by the Additional Collector, Rajnandgaon in case No.04/A-73/2003-04 whereby the trees which were cut with the permission of Tehsildar from the agricultural fields have been confiscated and the Additional Collector imposed a fine of Rs.5,000/- on each of the petitioners which was reduced by the Board of Revenue to the extent of Rs.1,000/-. However, confiscation of 4 trees in respect of W. P. No.3609/2005 and 17 trees in respect of W.P. No.3611/2005 was maintained.

Facts are almost admitted, therefore, learned Deputy Advocate General does not want to file any reply of these petitions.

With the consent of learned counsel for the parties, the above petitions are being disposed of finally.

Date

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In W. P. No.3609/2005 the petitioner's case is that he is the owner of land bearing Khasra No.257 area 4.14 acres situated at village Bharritola, P. H. No.25 under Rajaswa Nirikshak Mandal, Manpur. Four teak trees were standing in his agricultural land. He moved an application under Section 240 of the Madhya Pradesh Land Revenue Code before the Tehsildar to grant permission to cut those trees. The said permission was granted by Tehsildar vide order dated 30th January 2004. However, Patwari thereafter made a report to the S.D.O. and in turn S.D.O. reported the matter to the Collector from where he transferred the case to the Additional Collector. The Additional Collector vide order dated 28-6-2004 held that trees in question have been cut without permission of the Collector, therefore, trees are confiscated and a fine of Rs.5,000/- imposed.

Similar is the case of W.P.No.3611/2005 in which the petitioner sought permission from Tehsildar for cutting 17 trees from his field and in turn Tehsildar granted permission vide order Annexure-P/2 dated 30th January 2004. Patwari made a report to the S.D.O. and S.D.O. reported the matter to the Collector and the Collector transferred this matter to the Additional Collector who vide order dated 28-6-2004 held that trees in question were cut without permission of the Collector, therefore, trees are confiscated and a fine of Rs.5,000/- imposed.

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Against these orders, both the petitioners preferred an appeal before the Revenue Board and in turn Revenue Board dismissed the appeal holding that trees in question cut without permission of the Collector and Tehsildar was not entitled to grant permission, therefore, confiscation was maintained. However, fine amount was reduced from Rs.5,000/- to Rs.1,000/-.

It is admitted position that the petitioners were the owners of trees in question and they cut trees only after taking permission from Tehsildar, therefore, it cannot be said that without seeking permission or approaching Revenue Authorities, they cut trees and the Tehsildar concerned granted permission to the petitioners for cutting trees. If the Tehsildar was not knowing that who is the competent authority to grant permission, then how from an illiterate villager it can be expected that he ought to have sought permission from the Collector. Even though Revenue Board has ordered for enquiry against Tehsildar, but so far what has happened it is not known.

Since the petitioners cut trees after getting permission from Tehsildar, in the peculiar facts and circumstances of the case, ends of justice would meet if the orders passed by the Additional Collector and the Revenue Board are set aside.

Now, since the trees have already been cut, while setting aside the impugned orders, it is directed that logs in question be handed over to the Forest Department and in turn the Forest

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Barve	Department would asses the value of logs and to pay the assessed amount to the petitioners. With the direction aforesaid, the above writ petitions stand disposed of. In view of this order, all the pending applications stand disposed of. Parties are entitled for certified copy of this order. Sd/- L.C. Bhadoo Judge	